

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**STEPHEN DUANE ROBERTS,**

**Plaintiff,**

**v.**

**EDWARD ELLMAN, DALTON  
BURLESON, LUKE RACHEL,**

**Defendants.**

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**CIVIL ACTION NO. 6:18-CV-00224-TH**

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On May 29, 2018, the Court ordered Plaintiff to pay an initial partial filing fee of \$26.00 within 30 days of receipt of the Court's order. (Doc. No. 4.) Plaintiff failed to comply with this Order. Accordingly, on September 13, 2018, the Magistrate Judge issued his Report and Recommendation (Doc. No. 8) recommending this action be dismissed without prejudice for failure to prosecute or to obey an order of the Court. On October 1, 2018, Plaintiff filed Objections (Doc. No. 10) to the Report and Recommendation stating he was unaware of the paperwork required in order to withdraw funds from his account, but has since contacted the law librarian and completed the necessary papers to have funds withdrawn from his account. Having still not received any payment, on April 1, 2019 the Court *sua sponte* granted Plaintiff an extension to pay his initial filing fee until May 1, 2019. (Doc. No. 11.) The Court has still not received any payment.

The Court conducted a *de novo* review of the portions of the Magistrate Judge's findings to which objections have been raised and finds that the Magistrate Judge's findings and

conclusions are correct. 28 U.S.C. § 636(b)(1). Accordingly, the Court **OVERRULES** Plaintiff's Objections (Doc. No. 10) and **ADOPTS** the Magistrate Judge's Report and Recommendation (Doc. No. 8) as the findings of this Court. The above-styled action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. Any other pending motions are **DENIED** as **MOOT**.

**SIGNED** this the **23** day of **May**, 2019.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge